

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION

WILLIAM ANDREW ALLEN §  
VS. § CIVIL ACTION NO. 9:21cv84  
ANTHONY PATRICK §

MEMORANDUM ORDER PARTIALLY ADOPTING THE  
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff William Allen, an inmate at the Duncan Unit, proceeding *pro se*, brought this civil rights suit pursuant to 42 U.S.C. § 1983.

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends this action be dismissed for failing to state a claim upon which relief may be granted.

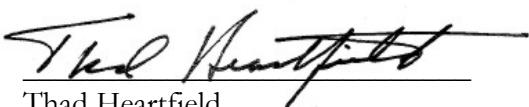
The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. Plaintiff filed objections to the Magistrate Judge's Report and Recommendation. Ordinarily this would require a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). However, on July 28, 2021, plaintiff moved to voluntarily dismiss the action.

Plaintiff is entitled to dismiss this action pursuant to Rule 41(a) because the defendants have filed neither an answer nor a motion for summary judgment. *See* FED. R. CIV. P. 41(a)(1)(i). Therefore, the report will be adopted to the extent it recommends dismissal. The dismissal will be without prejudice.

O R D E R

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED** to the extent it recommended dismissal. A final judgment will be entered in this case in accordance with the magistrate judge's recommendations.

SIGNED this the 18 day of October, 2021.

  
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Thad Heartfield  
United States District Judge